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No. 34881

IN THE
Supreme Court of the United States

OCTOBER TERM, 1930

No. 63

ABIE STATE BANK, APPELLANT,

VS.

ARTHUR J. WEAVER AS GOVERNOR OF THE STATE OF NEBRASKA; CLARENCE G. BLISS AS SECRETARY OF THE DEPARTMENT OF TRADE AND COMMERCE, APPELLEES;

WILLIS M. STEBBINS AS TREASURER OF THE STATE OF NEBRASKA, APPELLEE;

MARY E. GANDY, JAMES H. COVEY, THEODORE H. BUELT, HUFFMAN & SEYMOUR, INC., (A CORPORATION), LEONARD N. SEYMOUR, JOHN HALBUR AND FRANK N. HEBENSTREIT, APPELLEES.

REPLY TO RESISTANCE OF APPELLANT TO MOTION OF INTERVENERS

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REPLY TO RESISTANCE OF APPELLANT TO MOTION OF INTERVENERS

In its resistance appellant states:

> "The cross-petitions of the interveners were dismissed by the decree of the District Court (Tr. of Rec., page 41), and there is no mention of the interveners in the judgment of the Supreme Court nor in the opinion in said case."

It is true that interveners were defeated in the District Court of Nebraska. So were all other defendants. The statement that interveners were not mentioned in the judgment or in the opinion of the Supreme Court is untrue.

The Supreme Court in its opinion said:

> "The state treasurer and a number of individual bank depositors intervened in the action adversely to the plaintiff's contention. The court, however, found generally in favor of the plaintiff bank and against the defendants and interveners. Thereupon defendants were ordered to pay all costs of the action, except those incurred by the interveners, and the cross-petitions of the interveners were dismissed, and interveners ordered to pay their own costs. Defendants and a number of the interveners have appealed." (See Trans of Rec., page 60.)

In its resistance appellant also states:

> "The issues raised by them (interveners) are the same as those presented by the defendant."

This is not correct. The record of the interveners is being printed by the clerk of the Supreme Court of the United States and cannot be referred to by page. It will show that interveners, on behalf of themselves and other depositors similarly situated, in light of specific facts pleaded and proved by them, raised the issue of vested contractual rights existing between themselves and appellant banks and that they prayed for affirmative relief by reason thereof.

In its resistance appellant also states:

> "At this late date they (interveners) should not be heard to complain as the brief of appellant is in the printer's hands."

Interveners were parties specifically named with defendants in Nebraska Supreme Court judgment title and generally and award costs.

Appellant's resistance containing this statement was served on interveners on September 30, 1930. Interveners' motion for Writ of Certiorari and Diminution of the Record was served on appellant prior to August 11, 1930, and was filed in the Supreme Court of the United States on August 11, 1930. This was a month and three weeks prior to the printing of appellant's brief.

WILLIS M. STEBBINS as Treasurer of the State of Nebraska,
Appellee,

By C. A. SORENSEN,
C. E. ABBOTT,
His Attorneys.

MARY E. GANDY, JAMES H. COVEY, THEODORE H. BUELT, HUFFMAN & SEYMOUR, INC. (A Corporation), LEONARD N. SEYMOUR, JOHN HALBUR AND FRANK N. HEBENSTREIT,
Appellees.

By WILLIAM J. HOTZ, CLINTON J. CAMPBELL, FRANK A. HEBENSTREIT, RALPH G. COAD, ROBERT H. HOTZ, AND HENRY R. GOWER,
Their Attorneys.